Letter RO-5 – Center for Biological Diversity

RO-5-1 The introductory comment expresses concern that significant impacts to Quino checkerspot butterfly and its critical habitat were not analyzed or mitigated for adequately. The comment further states the EIR's conclusions are based on a misunderstanding of the butterfly's population dynamics and how it occupies and interacts with its habitat over time. In response, the Draft EIR (2015) and recirculated Biological Resources Technical Report for Alternative H (Appendix D-3) provide a thorough analysis of impacts to the Quino checkerspot butterfly. Suitable areas surveyed for Quino checkerspot butterfly are considered occupied regardless of the observation of the species. Under Alternative H, the impact to 389 acres of suitable habitat would be mitigated by the preservation of 1,107 acres of Preserve and 69.8 acres of Conserved Open Space, of which 1,107 acres is suitable habitat. The total requirement for conveyance is approximately 786.7 acres; however, the full 1,107 acres will be dedicated as preserve in the Otay Ranch RMP Preserve with an additional 69.8 acres to be preserved as Conserved Open Space. The open space design includes areas where Quino checkerspot has been observed during multiple surveys and areas adjacent to other suitable and likely occupied habitat. These areas include nectar sources, ridgelines, hilltops, and host plant populations. Upon conveyance to the Otay Ranch Preserve/Owner Manager (POM), there will be management of the Preserve by the POM, the management of the Conserved Open Space by either the POM or other qualified manager, and the implementation of the Quino Checkerspot Management/ Enhancement Plan. The Plan will include survey methods, monitoring, contingency, and adaptive management. The Plan will be reviewed and approved by the County and Wildlife Agencies prior to the implementation of the proposed Project. The indirect impacts are addressed with mitigation measures and the preparation of a Preserve Edge Plan. Moreover, implementation of components of the Preserve Edge Plan is a required element of several mitigation measures designed to avoid and minimize adverse edge effects, including mitigation measures M-BI-1f (Fencing and Signage), M-BI-13 (Stormwater Pollution Prevention Plan), M-BI-14 (cover of stockpiles, no toxic chemicals, no invasive plant species, no drainage into the preserve, slope stabilization is implemented, noise is minimized and no lighting of the preserve is allowed). Please also refer to Global Response R4: Quino Checkerspot Butterfly.

RO-5-2 The comment provides background information on the qualifications of the commenters. The comment does not raise an issue regarding the adequacy of environmental analysis; therefore, no further response is provided.

RO-5-3 The comment provides historical information on the Quino checkerspot butterfly. The comment does not raise an issue regarding the adequacy of environmental analysis; therefore, no further response is provided.

RO-5-4 The comment states that the "Village 13 Project would further imperil the species (Quino checkerspot butterfly) likely resulting in local if not regional extinction." Analysis of Quino checkerspot butterfly has been conducted, including multiple surveys and surveys for host plant (Section 2 of Appendix D-3). A biological open space easement would be placed over the Otay Ranch RMP Preserve and Conserved Open Space onsite, for a total of 1,177.03 acres. To mitigate for impacts to occupied Quino checkerspot butterfly habitat specifically, Alternative H

proposes to conserve approximately 1,107.72 acres of suitable, restored, or occupied coastal sage scrub for Quino checkerspot butterfly onsite, all of which is located within the existing Otay Ranch RMP Preserve and Conserved Open Space areas. The 1,107.72 acres includes coastal sage scrub and disturbed coastal sage scrub within the Otay Ranch RMP Preserve, including the temporary allowable impact areas that will be restored (1,030.87 acres), Conserved Open Space including the area of thornmint regularly used by Quino checkerspot butterfly (65.15 acres), and restored or enhanced areas currently not suitable (11.70 acres). For the purposes of protecting Quino checkerspot butterfly habitat, the 1,107.72 acres would be protected through the biological open space easement discussed above. Thus, impacts (389 acres) would be mitigated at a mitigation ratio of at least 2.85:1. Additional mitigation may be required as determined by the Wildlife Agencies during the take authorization process for Quino checkerspot butterfly. Given the preservation of areas occupied by the butterfly, the management of the preserve, the restoration of areas that are dominated by non-native grasses or disturbed habitat, the inclusion of features required by the species such as hilltops and ridgelines, the inclusion of host plant populations, the connectivity of the onsite occupied areas with offsite occupied areas, and the fewer adults observed in the proposed impact area, the conclusion is that local extinction is unlikely.

RO-5-5 The comment provides biological information on the Quino checkerspot butterfly. The comment does not raise an issue regarding the adequacy of environmental analysis; therefore, no further response is provided.

RO-5-6 The comment states that "the EIR fails to acknowledge that the Project site is core critical habitat for the Quino checkerspot butterfly." The comment further states "the Project is located on a 'core occurrence complex' named 'Unit 8' by the USFWS" and that the Project site contains a core population because of its size and central connective location containing Quino checkerspot butterfly habitat patches. The comment also discusses the lack of surveys for life stages other than adult. The County understands that the Quino checkerspot butterfly population within the Project site is important for the species and may have a core population per the critical habitat designation. The impact to critical habitat is quantified and provided in the Draft EIR (2015) as well as in Appendix D-3 and will be addressed during the Army Corps of Engineers permitting process and USFWS Section 7 consultation. A determination of "destruction or adverse modification" of designated critical habitat, as defined under the federal Endangered Species Act, is made by the USFWS in their Biological Opinions for Section 7 consultations. As such, it is a determination under federal law, not CEQA. Thus, it is not included in the Final EIR. Direct impacts to the species and its habitat are concluded to be significant and require mitigation, both for the proposed Project in the 2015 DEIR and Alternative H in the recirculated documents. In response to survey comments, protocol surveys were not conducted for the larvae or eggs at this time due to lack of protocol; however, if observed, the larvae were recorded and the USFWS was notified. See Global Response R4: Quino Checkerspot Butterfly for additional information.

RO-5-7 The comment states that "the loss and fragmentation of the core patch at the Project site will have a substantial adverse effect on the Quino checkerspot butterfly." The commenter also states that, in their view, "the loss of core habitat from the Project (with mitigation) will have a

significant and potentially catastrophic effect on the long-term viability of the Unit 8 metapopulation." The comment further notes the proposed Project would result in less contiguous habitat area and less heterogeneity. In response, the comments appear directed toward the proposed Project and the 2015 DEIR. The 2019 Recirculation Package includes an analysis of an additional alternative (Alternative H) to the proposed Project. Alternative H, which would result in a reduced development footprint and reduced fragmentation of the suitable habitat in comparison to the proposed Project. The Alternative H development footprint is concentrated in the southwestern corner of the Project site and avoids the northwestern and northern boundary as well as the northeastern corner and the entire eastern portion, all of which are connected to Preserves. Thus, Alternative H would not break up the existing continuous expanse and preserve heterogeneity in topography, habitat dense and sparseness, host plant populations, and nectar source as well as a variety of aspects and slope in the same scope that the proposed Project would. Additionally, the Alternative H footprint is smaller and more compact with fewer edge impacts and would provide more open space for habitat than the proposed Project.

RO-5-8 The comment states that the EIR's mitigation proposal of on-site preservation of a 2:1 ratio would not ensure that the affected metapopulation of Quino checkerspot butterfly would be able to survive and would not be reduced in size or eliminated. In response, it appears the comment addresses the proposed Project, which was fully analyzed in the 2015 DEIR. The 2019 Recirculation Package includes analysis of an additional alternative (Alternative H) to the proposed Project. Alternative H has a reduced development footprint, which would result in less edge effects than the proposed Project. The overall edge or circumference of Alternative H is approximately 19,000 linear feet compared to the proposed project which has an edge of approximately 41,000 linear feet. A biological open space easement would be placed over the Otay Ranch RMP Preserve and Conserved Open Space onsite, for a total of 1,177.03 acres. To mitigate for impacts to occupied Quino checkerspot butterfly habitat specifically, Alternative H proposes to conserve approximately 1,107.72 acres of suitable, restored, or occupied coastal sage scrub for Quino checkerspot butterfly onsite, all of which is located within the existing Otay Ranch RMP Preserve and Conserved Open Space areas. The 1,107.72 acres includes coastal sage scrub and disturbed coastal sage scrub within the Otay Ranch RMP Preserve, including the temporary allowable impact areas that will be restored (1,030.87 acres), Conserved Open Space including the area of thornmint regularly used by Quino checkerspot butterfly (65.15 acres), and restored or enhanced areas currently not suitable (11.70 acres). For the purposes of protecting Quino checkerspot butterfly habitat, the 1,107.72 acres would be protected through the biological open space easement discussed above. Thus, impacts (389 acres) would be mitigated at a mitigation ratio of at least 2.85:1. With the preparation of the Qunio Checkerspot Butterfly Management/Enhancement plan, contribution of funds and restoration, the set aside of Preserve lands in a contiguous configuration, and the take authorization provided under Section 7, the proposed mitigation is concluded to be adequate under CEQA.

RO-5-9 The comment provides a summary of the comments in the letter. Please refer to Responses to Comments above.